

**CHAPTER 5 – SELECTION OF THE PROJECT ARCHITECT OR PROJECT ENGINEER****1.0 Negotiating Committee**

- 1.1 A negotiating committee is established to interview the nominated architectural or engineering, firms, and to select and negotiate fees with the selected firm. When the negotiating committee is notified of the State Building Advisory Commission's (SBAC) nominations, interviews are scheduled with the nominated firms for each proposed project. Nominated firms will be provided a scope of work or program of the project, and are encouraged to visit the project site to gather information regarding the advertised project and to prepare supplemental information pertinent to the project for presentation to the negotiating committee during interviews.
- 1.2 Each negotiating committee shall consist of the following members:
  - 1.2.1 The head of the state agency for which the proposed project is planned or designee.
  - 1.2.2 The head of the institution for which the proposed project is planned or designee.
  - 1.2.3 A person designated by the Secretary of Administration who shall act as chairperson of the committee.
- 1.3 The negotiating committee shall have access to the current statements of qualification and performance data on the firms nominated by the SBAC. The committee shall interview each of the firms regarding the anticipated project and select a single firm, (unless the project was advertised for multiple selections). Results of the negotiating committee's selection(s) will be available on the DFM website at <http://da.ks.gov/fp/construction.htm> and to the SBAC at its next meeting.

**2.0 Requirements Prior to Fee Negotiation**

- 2.1 A written description of the scope or program of the project shall be prepared by the head of the state agency for which the project is proposed and submitted to the negotiating committee. (K.S.A. 75-1255)
  - 2.1.1 The negotiating committee may approve the description as submitted or may revise and amend or reject all or any part of such description.
  - 2.1.2 The description in the form approved by the negotiating committee shall be used in the negotiations between the committee and qualified firms.
  - 2.1.3 Such description shall be the basis for the project development and the project description shall not be altered therefrom without the prior approval of the negotiating committee.
- 2.2 Fee Negotiation Checklist FPDC Form 102, completed by the agency.
- 2.3 Project A/E Services FPDC Form 103, which designates services as either program services typically required by projects or additional services atypical of most projects, completed by the agency.
  - 2.3.1 Modifications to Form 103 shall be identified and attached to Form 102.
- 2.4 The program and the level of services described by the agency in Forms 102 and 103 will be given to the selected firm by DFM for the firm's review and verification. (K.S.A. 75-1257)

**3.0 Fee Negotiation**

- 3.1 Each negotiating committee shall negotiate a contract with the selected firm for the type of professional services required at a fair and reasonable rate of compensation in accordance with: [\(K.S.A. 75-1257 & 75-1263\)](#)
  - 3.1.1 the Secretary of Administration's published guidelines (located at the end of this chapter) for fees based on the projected cost of a project, the complexity of a project, the type of construction for the project and the level of services to be provided, as factors in establishing the rate or amount of such fees. [\(K.S.A. 75-1257 & 75-1263\)](#)
  - 3.1.2 the completed Fee Negotiation Checklist, the Project A/E Services and the BDCM.
- 3.2 Should the negotiating committee be unable to negotiate a contract with the firm considered to be the most qualified within the fee limits established, the committee shall then undertake negotiations with the second most qualified firm to negotiate a contract, and so forth with the third, fourth, and fifth firms, if necessary. Should the negotiating committee be unable to negotiate a satisfactory contract with any of the selected firms, the committee shall reevaluate the services and fee requirements and reopen negotiations with any of the nominated firms”.
- 3.3 Should the negotiating committee still be unable to enter into a contract with any of the nominated firms, it shall request the SBAC to provide another list of nominees.
- 3.4 The fee for professional design on-call services may be negotiated on the following basis: as an hourly rate, as a percentage of the estimated construction cost, or as a percentage of the construction contract award.

**4.0 Contracts**

- 4.1 Each firm shall be responsible for all negligent acts, errors or omissions in the performance of the contract and will be required to have professional liability insurance as determined by the fee negotiations. [\(K.S.A. 75-1257\)](#)
- 4.2 Each contract for professional services negotiated shall be entered into between the Secretary of Administration, the agency and the firm selected [\(K.S.A. 75-1258\)](#)
- 4.3 Each contract shall specify the responsibilities undertaken by the firm as outlined in the negotiation minutes prepared and coordinated by the Chair of each negotiating committee. The negotiating minutes will be attached to the contract after being signed by the firm and the negotiating committee.
- 4.4 Contracts are written as lump sum not-to-exceed contracts and may only be changed if the scope of work in the original program is revised by a contract amendment negotiated between the firm and the negotiating committee.

<b>A/E FEE GUIDELINES USING CRITERIA FOR: COST / COMPLEXITY / TYPE / SERVICES</b>									
Construction Cost	<b>\$750,000</b>			<b>\$1,500,000</b>			<b>\$2,500,000</b>		
Complexity/Construction Type	New	Combined	Remodel	New	Combined	Remodel	New	Combined	Remodel
<b>Utilitarian</b> (Considerably Less Than Ave)	<b>7.00%</b>	<b>8.00%</b>	<b>9.00%</b>	<b>6.75%</b>	<b>7.75%</b>	<b>8.75%</b>	<b>6.50%</b>	<b>7.50%</b>	<b>8.50%</b>
<b>Conventional</b> (Less Than Average)	<b>7.75%</b>	<b>8.75%</b>	<b>9.75%</b>	<b>7.50%</b>	<b>8.50%</b>	<b>9.50%</b>	<b>7.25%</b>	<b>8.25%</b>	<b>9.25%</b>
<b>Moderately Complex</b> (Average)	<b>8.50%</b>	<b>9.50%</b>	<b>10.50%</b>	<b>8.25%</b>	<b>9.25%</b>	<b>10.25%</b>	<b>8.00%</b>	<b>9.00%</b>	<b>10.00%</b>
<b>Comparatively Complex</b> (More Than Average)	<b>9.25%</b>	<b>10.25%</b>	<b>11.25%</b>	<b>9.00%</b>	<b>10.00%</b>	<b>11.00%</b>	<b>8.75%</b>	<b>9.75%</b>	<b>10.75%</b>
<b>Complex</b> (Considerably More Than Ave)	<b>10.00%</b>	<b>11.00%</b>	<b>12.00%</b>	<b>9.75%</b>	<b>10.75%</b>	<b>11.75%</b>	<b>9.50%</b>	<b>10.50%</b>	<b>11.50%</b>

Construction Cost	<b>\$5,000,000</b>			<b>\$7,500,000</b>			<b>\$10,000,000</b>		
Complexity/Construction Type	New	Combined	Remodel	New	Combined	Remodel	New	Combined	Remodel
<b>Utilitarian</b> (Considerably Less Than Ave)	<b>6.25%</b>	<b>7.25%</b>	<b>8.25%</b>	<b>6.00%</b>	<b>7.00%</b>	<b>8.00%</b>	<b>5.75%</b>	<b>6.75%</b>	<b>7.75%</b>
<b>Conventional</b> (Less Than Average)	<b>7.00%</b>	<b>8.00%</b>	<b>9.00%</b>	<b>6.75%</b>	<b>7.75%</b>	<b>8.75%</b>	<b>6.50%</b>	<b>7.50%</b>	<b>8.50%</b>
<b>Moderately Complex</b> (Average)	<b>7.75%</b>	<b>8.75%</b>	<b>9.75%</b>	<b>7.50%</b>	<b>8.50%</b>	<b>9.50%</b>	<b>7.25%</b>	<b>8.25%</b>	<b>9.25%</b>
<b>Comparatively Complex</b> (More Than Average)	<b>8.50%</b>	<b>9.50%</b>	<b>10.50%</b>	<b>8.25%</b>	<b>9.25%</b>	<b>10.25%</b>	<b>8.00%</b>	<b>9.00%</b>	<b>10.00%</b>
<b>Complex</b> (Considerably More Than Ave)	<b>9.25%</b>	<b>10.25%</b>	<b>11.25%</b>	<b>9.00%</b>	<b>10.00%</b>	<b>11.00%</b>	<b>8.75%</b>	<b>9.75%</b>	<b>10.75%</b>

**Notes:**

Each complexity factor and each construction type are established at a normal or typical level of difficulty. Individual projects levels may be evaluated compared to the presumed levels.

Combined projects include both new construction, such as an addition, and remodeling construction.

Projects with a Construction Cost between the listed cost values shall have fee values interpolated within the corresponding Fee Ranges.

Projects with a Construction Cost less than \$750,000 shall be negotiated as if the A/E delivery is for an "On-Call" contract.

Projects with a Construction Cost greater than \$10,000,000 shall be evaluated by extending Construction Cost in multiples \$2,500,000 with adjustments in Fee Range of 0.25% for Construction Type and 0.75% for Complexity.

Reference the separate list of Complexity Factors for Assigned Building Types Program Services listed in FPDC Form 103 "Services Provided by the Project Architect/Engineer" are established for a typical project.

A/E Fee Guidelines is established for use in evaluating Architecture-only or combined Architecture and Engineering Projects. Engineering-only projects may require different/adjusted criteria.

COMPLEXITY FACTOR FOR ASSIGNED BUILDING TYPE				
Utilitarian (Considerably Less Than Ave.)	Conventional (Less Than Average)	Moderately Complex (Average)	Comparatively Complex (More Than Average)	Complex (Considerably More Than Ave.)
Projects of simple, utilitarian character without complication or detail and with a high degree of repetition.	Projects of simple character requiring normal attention to design, detail, and with moderate repetition.	Projects of conventional character requiring normal attention to design and detail, complete mechanical and electrical systems.	Projects of specialized character requiring a high degree of skill in design, containing large amounts of complex scientific mechanical and electrical equipment.	Projects of detail character requiring elaborate planning and execution and devoid of repetition.
Agricultural Dam (Earthen) Construction Dam (Earthen) Renovation Grandstand Hangar Industrial Buildings Maintenance Shops Parking Structures Perimeter Security Towers Pre-engineered Structure Prototype Facilities (replication of previously designed facilities) Site Adaptations of Existing Designs Storage Facilities Warehouses	Apartments Armories Bakery Basic Building Structure without interior layout design Boat Ramps Bowling Alley Dining Facilities Dormitories Food Service Greenhouses Gymnasium Historical Facilities requiring only repairs Historical Monuments Laundry Detention / Correctional Facilities – Minimum Natatorium Offices Buildings without partitions Park Shelters Printing Plant Shop & Maintenance Facilities Site Work: Water, Sewers, Streets, Fences, Walks, Parking Lots, Park Trails, Landscaping, Signage, Site Lighting Stadium	Archive Building Auditorium Cellhouse Central Utility Plants Chapel Child Care Classrooms – General Day Care Facilities Detention / Correctional Facilities – Medium Dietary Facilities / Kitchens / Cafeterias Fire & Police Stations Fish Hatchery Floating Docks Recreational Facilities Heating Plant High Voltage Electrical Service / Distribution Laboratory (Dry) Lagoon Library Marinas Medical Office Facilities & Clinics Mental Hospitals - Non-secure Museum Offices Office Buildings with tenant improvements Power Plant Recreation Facility Restroom & Shower Buildings Schools: Sight / Hearing / Physically Impaired Shooting Range – Outdoor Shower Buildings Student Center Student Union / Center Swimming Pool – Natatorium Visitors / Interpretive Centers	Broadcast Studio Classroom – Specialized Computer Center Control Centers Detention / Correctional Facilities – Maximum Fish Hatcheries Food Service Facilities Historical Facilities requiring complete restoration Laboratory – Teaching (Wet) Medical Clinic Mental Hospitals – Secure Museums Observatories Residences Theaters Veterinary Hospital	Computing Center Hospitals Laboratory – Research (Wet) Medical Hospital Science & Medical Research Buildings

SERVICES PROVIDED BY THE PROJECT ARCHITECT / ENGINEER			
Description		Program	Additional
	Project Administration	X	
	Document Existing Facility		X
	Review of Existing Building Systems (MEP Structural, Fire alarm, Sprinkler etc)	X	
	Extensive Review / Evaluation of Existing Building Systems		X
	Coordination of Owner Supplied Data	X	
	Review of Program	X	
	Programming		X
	Master Planning		X
	Establish Project Time Schedule	X	
	Design Review Meetings	X	
	Facility Study to determine project scope		X
	Concept and Schematic Design	X	
	Design Development	X	
	Detailed Code Analysis / Code Footprint	X	
	Code Analysis outside project scope		X
	Compliance with ADAAG	X	
	Visit Like Facilities		X
	On-site Utilities Design	X	
	Off-site Utilities Design		X
	Construction Phasing		X
	Coordination with Local Jurisdictions outside code compliance issues		X
	Public Information Meetings / Presentations		X
	Regulatory Reviews (EPA, FAA, KDHE, etc)		X
	Energy Code Compliance	X	
	Renderings	X	
	Presentation models and/or Fundraising materials		X
	Life Cycle Cost Analysis		X
	Specialty Consultants		X
	Building Security Systems	X	
	Office/Classroom Telecommunications System Design and Construction Documents	X	
	Specialty Telecommunications System design and Construction Documents		X
	Energy Studies		X
	Environmental Studies		X
	Way finding design (Signage)	X	
	LEED Certification		X
	Architectural Design and Construction Documents	X	
	Structural Design and Construction Documents	X	
	Mechanical Design Construction Documents	X	

Description		Program	Additional
	Electrical Design Construction Documents	X	
	Fire Alarm and Life Safety Systems Design and Construction Documents	X	
	Fire Suppression Evaluation Design	X	
	Fire Suppression system Final Design and Construction Documents		X
	Civil Design Construction Documents	X	
	Landscape Design Construction Documents	X	
	Food Service Design and Construction Documents	X	
	Construction Document Review Meetings	X	
	Discipline Coordination	X	
	Detailed Construction Cost Estimates at all Phases of design.	X	
	Materials Research and Specification Writing	X	
	Bidding Services (addenda, pre-bid, substitutions)	X	
	Shop Drawing Review and Approval	X	
	Pre-construction Conference	X	
	Excessive Travel Distance		X
	Construction Field Inspection and Reports	X	
	Architect/engineer to inspect concealed spaces prior to spaces being covered up	x	
	Architect to inspect project to ensure compliance with Construction Documents	X	
	Engineer(s) to inspect project to ensure compliance with Construction Documents	X	
	Engineer(s) to be present for final life safety systems testing	X	
	RFI and Change Order Processing	X	
	Construction Change Directives	X	
	Project Schedule Monitoring	X	
	Construction Progress Meetings	X	
	Review and Approval of Contractor's Pay Apps.	X	
	Final Inspections and Reports	X	
	As-Builts	X	
	O & M Manuals and Training	X	
	Warranty Review	X	
	Commissioning		X
	Special Testing		X
	Project Specific - List		

<b>A/E FEE NEGOTIATION CHECKLIST</b>					
<b>Agency</b>		Construction Budget	\$0.00		
<b>Project Title</b>					
<b>Project Number</b>					
<b><u>Administrative</u></b>					
Architect is required to have liability insurance for this project. Minimum amount of coverage is 5%.					\$0.00
Visit Like Facilities.	<input type="checkbox"/> Yes	<input type="checkbox"/> No			
Life Cycle Cost Analysis.	<input type="checkbox"/> Yes	<input type="checkbox"/> No	List Systems		
LEED Certification.	<input type="checkbox"/> Yes	<input type="checkbox"/> No			
Existing Documentation of Building.	<input type="checkbox"/> Available from DFM	<input type="checkbox"/> Electronic	<input type="checkbox"/> Paper		
	<input type="checkbox"/> Available from Agency	<input type="checkbox"/> Electronic	<input type="checkbox"/> Paper		
	<input type="checkbox"/> Project architect/engineer to create				
	<input type="checkbox"/> Extensive verification and site investigation				
Existing Facility Study used to determine project scope.	<input type="checkbox"/> Yes	<input type="checkbox"/> No			
Programming is required by the architect/engineer.	<input type="checkbox"/> Yes	<input type="checkbox"/> No			
Additional evaluation / examination of existing MEP systems including viability and life span.	<input type="checkbox"/> Yes	<input type="checkbox"/> No	Which systems?		
<b><u>Design (Schematic/ Design Development)</u></b>					
Code Review / Analysis outside the scope of this project.	<input type="checkbox"/> Yes	<input type="checkbox"/> No			
Energy Code Compliance.	<input type="checkbox"/> Yes	<input type="checkbox"/> No			
Frequency of Reviews.	Per Manual (Concept, Schematic, DD)				
	<input type="checkbox"/>	Other than prescribed in Manual			
Review Documents.	Explain requirements				
	Per Manual (5 sets - 2 to DFM, 3 to agency/user agency)				
	<input type="checkbox"/>	Other than prescribed in Manual.			
Additional Reviews with Committees or public information meetings.	Explain requirements				
Coordination with Local Jurisdictions for utilities/services.	<input type="checkbox"/> Yes	<input type="checkbox"/> No	How many?		
Regulatory Reviews (EPA, FAA, KDHE, etc).	<input type="checkbox"/> Yes	<input type="checkbox"/> No	Explain		
Rendering, Presentation Model or Tools required for fund raising.	<input type="checkbox"/> Yes	<input type="checkbox"/> No	How many?		
	<input type="checkbox"/> Rendering (computer is std.)	<input type="checkbox"/> Other Media			
	<input type="checkbox"/> Presentation Model	<input type="checkbox"/> Fund Raising			

<b>A/E FEE NEGOTIATION CHECKLIST</b>					
<b>Agency</b>	<hr/>	Construction Budget	<hr/> \$0.00		
<b>Project Title</b>	<hr/>				
<b>Project Number</b>	<hr/>				
<div style="display: flex; justify-content: space-between;"> <div> <p>Building Security Systems. <input type="checkbox"/> General <input type="checkbox"/> Detention</p> <p>Specialty Consultants Required (Food Service, Acoustical, Detention, etc.) <input type="checkbox"/> Yes <input type="checkbox"/> No</p> </div> <div> <p>List consultants <hr/></p> </div> </div> <p><b><u>Construction Documents</u></b></p> <p>Frequency of Reviews. <input type="checkbox"/> Per Manual (30%, 60%, Final)  <input type="checkbox"/> Other than prescribed in Manual Explain <hr/></p> <p>Review Documents (Plans and Specifications). <input type="checkbox"/> Per Manual (5 sets 2-DFM, 3 to agency / user agency)  <input type="checkbox"/> Other than prescribed in Manual Explain <hr/></p> <p>Number of Bid Packages Required. <input type="checkbox"/> One (1) <input type="checkbox"/> More than one (1) How many? <hr/></p> <p>Additional Reviews required by the Funding or Certification agency. <input type="checkbox"/> Yes <input type="checkbox"/> No How many? <hr/></p> <p><b><u>Bidding</u></b></p> <p>Pre-Bid Conference required for project. <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, architect/engineer attendance is mandatory</p> <p><b><u>Construction Administration</u></b></p> <p>Attend Pre-construction Conference <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Provide Project Meetings and Site Visits. <input type="checkbox"/> Yes <input type="checkbox"/> No  <input type="checkbox"/> Weekly <input type="checkbox"/> Bi-month <input type="checkbox"/> Other <hr/></p> <p>Travel Distance from architect/engineer office to project site <input type="checkbox"/> Local <input type="checkbox"/> 60 Miles <input type="checkbox"/> &gt; 60 Miles <hr/></p> <p>Travel Time from architect/engineer office to project site <input type="checkbox"/> &lt; 2 hrs <input type="checkbox"/> 2 - 4 hrs <input type="checkbox"/> &gt; 4 hrs <hr/></p> <p>Construction Duration <input type="checkbox"/> &lt; 6 mo <input type="checkbox"/> 6 - 12 mo <input type="checkbox"/> 12 - 24 mo <input type="checkbox"/> &gt;24 mo</p> <p>Special Testing List Systems <hr/></p> <p><b><u>Project Close Out</u></b></p> <p>As-Builts Per Manual (1 vellum copy to DFM, 1 CD / DVD to DFM, 2 CD / DVD to agency)  <input type="checkbox"/> Other than prescribed in Manual Explain <hr/></p> <p>Commissioning of HVAC systems <input type="checkbox"/> Yes <input type="checkbox"/> No</p>					

**END OF CHAPTER 5**